

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 53 of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

ASHOKA MILLS LTD

Appearance:

MR MANISH R BHATT for Petitioner
MR JP SHAH for Respondent No. 1

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE A.R.DAVE

Date of decision: 05/09/2000

Per Dhamadhikari, C.J.:

In this Reference at the instance of Revenue under section 256 (1) of the Income tax Act, 1961, in respect of assessment year 1980-81, the following questions arise for answer:

- (i) Whether on the facts and in the circumstances of the case, income tax appellate tribunal has been right in law in upholding the assessee's claim for deduction of Rs 39,884/being the payment made to Mettur Beardshell Limited, for use of trade mark 'Tebilised'?
- (ii) Whether the appellate tribunal has been right in law in holding that the provisions of section 40 (c)/40A(5) of the Income tax Act, 1961 would not be applicable in the case of medical benefits. gratuity paid to the Managing Director, Premium paid for personal accident insurance of Managing Director and reimbursement of medical expenses paid to the employees of the assessee company?

Learned counsel appearing for the assessee and the department agree that question No.1 regarding claim for deduction of the amount paid for use of trade mark "Tebilised" is squarely covered in favour of the assessee by the decision in the case of CIT vs. Ashoka Mills Limited, 218 ITR 586.

So far as question No.2 is concerned, it is in two parts. The first part pertains to medical benefits and gratuity paid to the Managing Director which claim is based on section 50 (c)/ 40A (5) . This question has to be answered against the assessee relying on the decision in the case of CIT vs. Raipur Manufacturing Co. 231 ITR 598.

So far as second part of question No.2 regarding premium paid for personal accident insurance of Managing Director and reimbursement of medical expenses paid to the employees of the assessee company is concerned, the question on facts is concluded by the decision in favour of the assessee by the decision of this court in the case of CIT vs. Cama Motors Private Limited, 234 ITR 699.

The questions posed are thus answered.

The Reference stands disposed of but with no order as to costs.

(D. M. Dharmadhikari, C. J.)

(A. R. Dave, J.)

parekh